

AMENDED IN ASSEMBLY APRIL 18, 2013

AMENDED IN ASSEMBLY MARCH 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 47

Introduced by Assembly Member Gatto

December 19, 2012

An act to add Section 653.01 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 47, as amended, Gatto. Emergency telephone system: abuse.

Under existing law, any person who knowingly allows the use of, or who uses, the 911 telephone system for any reason other than because of an emergency is guilty of an infraction. Any person who uses the 911 telephone system with the intent to annoy or harass another person is guilty of a misdemeanor, punishable by a fine not exceeding \$1,000, by imprisonment in a county jail for not more than 6 months, or by both that fine and imprisonment.

This bill would ~~provide that~~ *make* any person who calls the 911 telephone system to dispatch a police, sheriff, fire department, or emergency medical service *personnel* response to a residence or place of business where there is no emergency, with the intent to annoy or harass another person, and police, sheriff, fire department, or emergency medical service personnel are dispatched as a result of the call, ~~is~~ *is* guilty of a misdemeanor punishable by a fine not exceeding ~~\$10,000~~ *\$2,000*, by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. Under the bill, the person responsible for that call is guilty of ~~a felony~~ *an offense* punishable by a fine not exceeding \$10,000, by imprisonment in a county jail ~~for not more than~~

~~2 years not exceeding one year, or for 16 months, or 2 or 3 years, or~~ by both that fine and imprisonment, if any person sustained bodily injury as a result of conduct arising out of and in the course of the police, sheriff, fire department, or emergency medical service dispatch. ~~Under the bill, the person responsible for that call is guilty of involuntary manslaughter, punishable as specified, if any person sustained death as a result of conduct arising out of and in the course of the police, sheriff, fire department, or emergency medical service personnel dispatch.~~ This bill would require, upon conviction, that the person shall also be liable for all reasonable costs incurred by any unnecessary emergency response. This bill would exempt from its provisions telephone calls made in good faith. By increasing the penalty for an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 653.01 is added to the Penal Code, to
2 read:
3 653.01. (a) Any person who calls the 911 telephone system
4 to dispatch a police, sheriff, fire department, or emergency medical
5 service *personnel* response to a residence or place of business
6 where there is no emergency, with the intent to annoy or harass
7 another person and if police, sheriff, fire department, or emergency
8 medical service personnel *are* dispatched as a result of the
9 telephone call, is guilty of a misdemeanor punishable by a fine of
10 not more than ~~ten~~ *two* thousand dollars ~~(\$10,000)~~ *(\$2,000)*, by
11 imprisonment in a county jail for not more than one year, or by
12 both that fine and imprisonment.
13 (b) Any person who calls the 911 telephone system to dispatch
14 a police, sheriff, fire department, or emergency medical service
15 personnel response to a residence or place of business where there
16 is no emergency, with the intent to annoy or harass another person
17 and if police, sheriff, fire department, or emergency medical service

1 personnel are dispatched and any person sustains bodily injury as
2 a result of conduct arising out of and in the course of the police,
3 sheriff, fire department, or emergency medical service personnel
4 being dispatched to the residence or place of business, is guilty of
5 ~~a felony~~ *an offense* punishable by a fine of not more than ten
6 thousand dollars (\$10,000), by imprisonment in a county jail ~~for~~
7 ~~not more than two years~~ *not exceeding one year; or, pursuant to*
8 *subdivision (h) of Section 1170, for 16 months, or two or three*
9 *years, or by both that fine and imprisonment.*

10 ~~(e) Any person who calls the 911 telephone system to dispatch~~
11 ~~a police, sheriff, fire department, or emergency medical service~~
12 ~~response to a residence or place of business where there is no~~
13 ~~emergency, with the intent to annoy or harass another person and~~
14 ~~if police, sheriff, fire department, or emergency medical service~~
15 ~~personnel are dispatched and any person sustained death as a result~~
16 ~~of conduct arising out of and in the course of the police, sheriff,~~
17 ~~fire department, or emergency medical service being dispatched~~
18 ~~to the residence or place of business, is guilty of involuntary~~
19 ~~manslaughter punishable under subdivision (b) of Section 193.~~

20 *(c) This section does not preclude punishment under any other*
21 *law providing for greater punishment, including, but not limited*
22 *to, involuntary manslaughter as defined in subdivision (b) of*
23 *Section 192.*

24 (d) For purposes of this section, “emergency” means any
25 condition in which emergency services will result in the saving of
26 a life, a reduction in the destruction of property, quicker
27 apprehension of criminals, or assistance with potentially
28 life-threatening medical problems, a fire, a need for rescue, an
29 imminent potential crime, or a similar situation in which immediate
30 assistance is required.

31 (e) Upon conviction of this section, a person shall also be liable
32 for all reasonable costs, including property damage, incurred by
33 an unnecessary police, sheriff, fire department, or emergency
34 medical service *personnel* response.

35 (f) This section shall not apply to telephone calls made in good
36 faith.

37 SEC. 2. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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